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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2011-570

**TERESITA GUTIERREZ
c/o G. Mandi
4366 Crater Street
Las Vegas, NV 89122
Registered Nurse License No. 560798**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about December 23, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2011-570 against Teresita Gutierrez (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about November 5, 1999, the Board of Registered Nursing (Board) issued Registered Nurse License No. 560798 to Respondent. The Registered Nurse License expired on May 31, 2001, and has not been renewed.

3. On or about December 23, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-570, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions

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1 Code section 136 and/or agency specific statute or regulation, is required to be reported and
2 maintained with the Board, which was and is:

3 c/o G. Mandi
4 4366 Crater Street
Las Vegas, NV 89122

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code
7 section 124.

8 5. The Certified and First Class mail were both returned by the United States Postal
9 Service marked Returned to Sender, Attempted Not Known.

10 6. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

14 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-
16 570.

17 8. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

21 9. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 2011-570, finds
26 that the charges and allegations in Accusation No. 2011-570, are separately and severally, found
27 to be true and correct by clear and convincing evidence.

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1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$320 as of January 19, 2011.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Teresita Gutierrez has subjected
6 her Registered Nurse License No. 560798 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
9 Nurse License based upon the following violations alleged in the Accusation which are supported
10 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

11 a. Respondent engaged in unprofessional conduct in violation of Code section 2761,
12 subdivision (a)(4), in that she was disciplined by the Nevada State Board of Nursing ("Nevada
13 Board"), as follows: On or about June 29, 2010, pursuant to the Agreement for Reprimand in the
14 disciplinary proceeding titled "In the Matter of Teresita Gutierrez Licensed Professional Nurse
15 Nevada License No. RN35962", Case No. 0133-09C, the Nevada Board ordered that Respondent
16 be publicly reprimanded for violating Nevada Revised Statutes 632.320(7), unprofessional
17 conduct, and Nevada Administrative Code 632.890(34), neglect of a patient. Respondent
18 admitted that prior to January 15, 2009, Respondent was working as a registered nurse and
19 caregiver for a 95-year old woman. An inspection of the house that Respondent shared with her
20 95-year old patient revealed that Respondent allowed unhealthy living conditions for her patient.
21 The inspection also revealed that Respondent had neglected the physical and medical care of her
22 patient.

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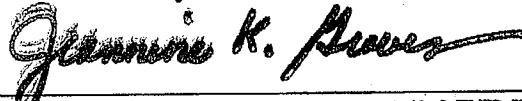
1 ORDER

2 IT IS SO ORDERED that Registered Nurse License No. 560798, heretofore issued to
3 Respondent Teresita Gutierrez, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written motion requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on April 22, 2011.

9 It is so ORDERED March 22, 2011.

10 

11 FOR THE BOARD OF REGISTERED NURSING
12 DEPARTMENT OF CONSUMER AFFAIRS

13 10656630.DOCX
14 DOJ Matter ID:SA2010102299

15 Attachment:
16 Exhibit A: Accusation
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Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-570

13 **TERESITA GUTIERREZ**
c/o G. Mandi
14 4366 Crater Street
Las Vegas, NV 89122
Registered Nurse License No. 560798

ACCUSATION

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about November 5, 1999, the Board issued Registered Nurse License Number
23 560798 to Teresita Gutierrez ("Respondent"). Respondent's registered nurse license expired on
24 May 31, 2001.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

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1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license.

6 5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
8 period within which the license may be renewed, restored, reissued or reinstated.

9 6. Code section 2761 states, in pertinent part:

10 The board may take disciplinary action against a certified or licensed
11 nurse or deny an application for a certificate or license for any of the following:

12 (a) Unprofessional conduct, which includes, but is not limited to, the
13 following:

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15 (4) Denial of licensure, revocation, suspension, restriction, or any other
16 disciplinary action against a health care professional license or certificate by another
state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action . . .

17 COST RECOVERY

18 7. Code section 125.3 provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licensee found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 CAUSE FOR DISCIPLINE

23 (Disciplinary Action by the Nevada State Board of Nursing)

24 8. Respondent is subject to disciplinary action pursuant to Code section 2761,
25 subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the
26 Nevada State Board of Nursing ("Nevada Board"), as follows: On or about June 29, 2010,
27 pursuant to the Agreement for Reprimand in the disciplinary proceeding titled "In the Matter of
28 Teresita Gutierrez Licensed Professional Nurse Nevada License No. RN35962", Case No. 0133-

09C, the Nevada Board ordered that Respondent be publicly reprimanded for violating Nevada Revised Statutes 632.320 (7), unprofessional conduct, and Nevada Administrative Code 632.890 (34), neglect of a patient. Respondent admitted that prior to January 15, 2009, Respondent was working as a registered nurse and as a caregiver for a 95-year old woman. An inspection of the house that Respondent shared with her 95-year old patient revealed that Respondent allowed unhealthy living conditions for her patient. The inspection also revealed that Respondent had neglected the physical and medical care of her patient. A true and correct copy of the Agreement for Reprimand is attached hereto as Exhibit A and incorporated herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 560798, issued to Teresita Gutierrez;
2. Ordering Teresita Gutierrez to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 12/23/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

AGREEMENT FOR REPRIMAND, CASE NO. 0133-09C

1 **BEFORE THE NEVADA STATE BOARD OF NURSING**

2
3 IN THE MATTER OF
4 TERESITA GUTIERREZ
5 LICENSED PROFESSIONAL NURSE
6 NEVADA LICENSE NO. RN35962
7 RESPONDENT

AGREEMENT FOR REPRIMAND

CASE NO. 0133-09C

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9 This Agreement is hereby entered into between TERESITA GUTIERREZ,
10 (RESPONDENT) and the NEVADA STATE BOARD OF NURSING, (BOARD).

11 It is hereby stipulated and agreed, by and between the parties to the above-entitled matter,
12 that the following statements are true:

13 1. Respondent is aware of, understands, and has been advised of the effect of this
14 Agreement, which Respondent herein has carefully read and fully acknowledges. No coercion
15 has been exerted on the Respondent. Respondent acknowledges her right to an attorney at her
16 own expense. The Respondent has had the benefit at all times of obtaining advice from
17 competent counsel of her choice.

18 2. Respondent understands the nature of the allegations under investigation by the
19 Nevada State Board of Nursing. Respondent freely admits that prior to January 15, 2009,
20 Respondent was working as a Registered Nurse and as a caregiver for a 95-year old woman. An
21 inspection of the house that Respondent shared with her 95-year old patient revealed that
22 Respondent allowed unhealthy living conditions for her patient. The inspection also revealed
23 that Respondent had neglected the physical and medical care of her patient. Respondent
24 acknowledges this conduct constitutes a violation of the Nevada Revised Statutes 632.320 (7)
25 unprofessional conduct, and Nevada Administrative Code 632.890 (34) neglect of a patient.
26 Respondent further acknowledges that such acts and admissions subject her to disciplinary action
27 by the Board.
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1 3. Respondent is aware of the Respondent's rights, including the right to a hearing
2 on any charges and allegations, the right to an attorney at her own expense, the right to examine
3 witnesses who would testify against her, the right to present evidence in her favor and call
4 witnesses on her behalf, or to testify herself, the right to contest the charges and allegations, the
5 right to reconsideration, appeal or any other type of formal judicial review of this matter, and any
6 other rights which may be accorded to her pursuant to the Nevada Administrative Procedures Act
7 and the provisions of Chapter 632 of the Nevada Revised Statutes and the Nevada
8 Administrative Code. Respondent agrees to waive the foregoing rights upon acceptance of this
9 Agreement by the Board.

10 4. Respondent understands that the Board is free to accept or reject this Agreement,
11 and if rejected by the Board, a disciplinary proceeding may be commenced.

12 5. Should the Agreement be rejected by the Board, it is agreed that presentation to
13 and consideration by the Board of such proposed Agreement, shall not disqualify the Board, or
14 any of its members, from further participation, consideration, adjudication or resolution of these
15 proceedings, and that no Board member shall be disqualified or challenged for bias therefore.

16 6. This Agreement shall only become effective when both parties have duly
17 executed it and unless so executed, this Agreement will not be construed as an admission.

18 7. This Agreement shall not be construed as excluding or reducing any criminal or
19 civil penalties or sanction or other remedies that may be applicable under federal, state or local
20 laws.

21 8. This Agreement shall cover any nursing license and/or certificate issued by the
22 State of Nevada.

23 9. Based upon the foregoing stipulations and recitals, it is hereby agreed that the
24 Board may issue the following decision and order:

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DECISION AND ORDER

Based on the foregoing, and good cause appearing therefore, it is hereby ordered that:

1. Respondent be publicly reprimanded.

2. As a condition of licensure Respondent, within the first twelve (12) months of this Agreement, shall take, and successfully complete the following courses:

- a. Legal ethics in nursing for a minimum of 30 contact hours; and
- b. Critical thinking in nursing for a minimum of 30 contact hours; and
- c. Patient Safety in nursing for a minimum of 30 contact hours; and
- c. The Nevada Nurse Practice Act course.

The courses must be pre-approved by the Executive Director, or the Director of Operations.

Documentation of successful course completion must be submitted to the Board within twelve (12) months of the execution of this Agreement.

This Agreement will become part of the Respondent's permanent record, will become public information, will be published with the list of disciplinary actions the Board has taken, and may be reported to any national repository which records disciplinary action taken against licensees or holders of certificates; or any agency or another state which regulates the practice of nursing.

1 The Agreement may be used in any subsequent hearings by the Board. In the event other
2 misconduct is reported to the Board, this Agreement may be used as evidence against the
3 Respondent to establish a pattern of behavior and for the purpose of proving additional acts of
4 misconduct.

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7 Dated this 10th day of May, 2010

Teresita Gutierrez
RESPONDENT
TERESITA GUTIERREZ

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11 Dated this 10th day of May, 2010

Tracy L. Singh, Esq.
Tracy L. Singh, Esq.

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14
15 Accepted and approved this 29 day of June, 2010

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18 NEVADA STATE BOARD OF NURSING

19
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21 By:

Doreen K. Begley
Doreen Begley, MSN, RN
Board President